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In re Application of SIMON et al

U.S. Application No.: 10/533,778

PCT Application No.: PCT/DE03/01409

Int. Filing Date: 02 May 2003

Priority Date Claimed: 07 May 2002

Attorney Docket No.: 10191/3675

For: METHOD FOR DETERMINING AN
ACCIDENT RISK OF A FIRST OBJECT
WITH AT LEAST ONE SECOND OBJECT

COMMUNICATION

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 29 July 2005.

BACKGROUND

On 02 May 2003, applicant filed international application PCT/DE03/01409, which claimed priority of an earlier United States application filed 07 May 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 20 November 2003. The thirty-month period for paying the basic national fee in the United States expired on 07 November 2004.

International application PCT/DE03/01409 became abandoned as to the United States for failure to timely file the requisite basic national fee.

On 29 July 2005, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), the petition states, "The entire delay in timely entering the national stage in the United States under 37 U.S.C. 371 was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 02 May 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 29 July 2005.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.



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